

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:19-cr-0039
)	
HECTOR HERNANDEZ SAVCEDO,)	
)	
Defendant.)	
)	

ORDER

BEFORE THE COURT is Defendant Hector Hernandez Savcedo's ("Savcedo") motion to continue sentencing hearing, filed on January 12, 2021. (EFC No. 194.) Savcedo's sentencing hearing is currently scheduled for January 21, 2021. Savcedo, through his counsel, requests that his hearing be continued to a date after March 15, 2021. For the reasons below, the Court will grant the motion in part and deny in part.

In support of his motion, Savcedo argues that he has not reviewed or discussed the Presentence Report ("PSR") with counsel, due to his counsel's hesitancy to visit Guaynabo during the pandemic. Savcedo asserts that his counsel has not been vaccinated for COVID-19 and "[t]here is currently a COVID-19 spread at the [location] where federal inmates are held," as well as at MDC Guaynabo. *Id.* at 2. Savcedo represents that a "Safety Valve debriefing" is also pending in this case. *Id.* Savcedo therefore requests that his sentencing hearing be continued until at least March 15, 2021, or in the alternative that the sentencing hearing be held by video teleconference ("VTC"). Savcedo states that the United States "has expressed no objection to [the motion]." *Id.*

Ordinarily, and pursuant to Federal Rule of Criminal Procedure 43, a "defendant must be present at . . . sentencing." Fed. R. Crim. P. 43(a)(3). However, due to the COVID-19 pandemic, Congress provided that under certain circumstances a sentencing may be conducted by video teleconference. On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). Among its many provisions, the CARES

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Act authorizes district courts to use video teleconferencing to hold felony sentencings with the consent of the defendant after consultation with counsel. *See* CARES Act, § 15002(b)(2), H.R. 748, 248-49; *id.* § 15002 (b)(4) (“Video teleconferencing . . . authorized under paragraph . . . (2) may only take place with the consent of the defendant . . . after consultation with counsel.”).

Here, there is no representation that Savcedo has consented to appearing via VTC at his sentencing hearing. However, Savcedo has articulated a basis to continue the hearing due to COVID-19 conditions.

Accordingly, it is hereby

ORDERED that Defendant Savcedo’s Motion to Continue Sentencing Hearing (ECF No. 194) is **GRANTED** in part and **DENIED** in part. Savcedo’s request to appear at his sentencing hearing scheduled on January 21, 2021, by VTC is **DENIED without prejudice**. Savcedo’s request to continue the sentencing hearing is **GRANTED**; it is further

ORDERED that Savcedo’s sentencing hearing, currently scheduled for January 21, 2021, is hereby **RESCHEDULED** to April 8, 2021, at 9:00 A.M. in St. Thomas Courtroom 1.

Dated: January 19, 2021

/s/ Robert A. Molloy
ROBERT A. MOLLOY
District Judge